

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I and the amendment of ARM 12.11.501 and 12.11.4101 pertaining to closing the Boulder River to all motorized watercraft) NOTICE OF PUBLIC HEARING ON
) PROPOSED ADOPTION AND
) AMENDMENT
)
)

TO: All Concerned Persons

1. On November 30, 2020, at 2:00 p.m., the Fish and Wildlife Commission (commission) will hold a telephonic public hearing via ZOOM meeting platform to consider the proposed adoption and amendment of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis by the novel coronavirus, COVID-19, there will be no in-person hearing. Interested parties may access the remote conferencing in the following way:

(a) Dial by telephone, 1-646-558-8656
Meeting ID: 917 4172 8506
Password: 600214

The hearing will begin with a brief introduction by staff to explain the use of the telephonic platform. All participants will be muted except when it is their time to speak.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on November 20, 2020, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I BOULDER RIVER (1) The Boulder River is located in Park and Sweet Grass counties.

(2) The Boulder River and its tributaries are closed to any motorized watercraft from the headwaters of the Boulder River to the confluence with the Yellowstone River.

AUTH: 87-1-303, MCA
IMP: 87-1-303, MCA

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

12.11.501 LIST OF WATER BODIES The following is a list of specific regulations on bodies of water with the reference where the rules regarding those bodies of water are located:

(1) through (17) remain the same.

(18) Boulder River [NEW RULE I]

(18) through (120) remain the same but are renumbered (19) through (121).

AUTH: 87-1-301, 87-1-303, MCA

IMP: 87-1-303, MCA

12.11.4101 PARK COUNTY (1) All rivers and streams in Park County east of the continental divide are closed to the use of all watercraft propelled by machinery of over 10 horsepower with the following exceptions:

(a) on the Yellowstone River, downriver from Highway 89 bridge (near the mouth of the Shields River); and

(b) the Boulder River, which is closed to all motorized watercraft pursuant to [NEW RULE I].

AUTH: ~~23-4-106~~, 87-1-303, MCA

IMP: ~~23-4-106~~, 87-1-303, MCA

REASON: At their October 22, 2020 meeting, the commission initiated rulemaking on a petition to ban motorized use on the Boulder River from the headwaters to its confluence with the Yellowstone River and all tributaries of the Boulder River. The petition was submitted by Tom Patterson on behalf of co-petitioners Kristi Patterson, Dan Rostad, Stuart and Dava Stenberg, Brian and Mary Ann Finnan, and Keith and Marie Engle. The petition also included a letter in support signed by 47 persons. The petition references safety concerns with jet boats that can operate at high rates of speed when stream flows are very low. The petition states that the Boulder River is a small river with many blind turns and narrow channels and motorized boats moving up and down the river at high rates of speed create a public health hazard for boaters and other users, including the dangerous possibility of collisions between a jet boat and irrigation equipment, livestock, children swimming, floating on inner tubes and rafts, and residents fishing.

The commission is proposing to amend ARM 12.11.501 and 12.11.4101 and to adopt NEW RULE I to ban all motorized use on the Boulder River pursuant to the petition.

5. Concerned persons may submit their data, views, or arguments orally at the telephonic hearing. Written data, views, or arguments may also be submitted to: Phil Kilbreath, Department of Fish, Wildlife and Parks Enforcement Division, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail pkilbreath@mt.gov, and must be received no later than December 4, 2020.

6. Kaedy Gangstad or another hearing officer appointed by the department has been designated to preside over and conduct the hearing.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to: Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be emailed to kgangstad@mt.gov.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the commission has determined that the adoption and amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Rebecca Dockter
Rebecca Dockter
Rule Reviewer

/s/ Shane Colton
Shane Colton
Chair
Fish and Wildlife Commission

Certified to the Secretary of State October 27, 2020.